

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

KERI DWYER,)	
)	
Plaintiff,)	
)	
v.)	No. 1:15-cv-2322
)	
DISCOVER FINANCIAL SERVICES)	
d/b/a Discover Card,)	
)	
Defendant.)	

PLAINTIFF’S COMPLAINT

Plaintiff, KERI DWYER (“Plaintiff”), through her attorneys, alleges the following against Defendant, DISCOVER FINANCIAL SERVICES d/b/a Discover Card (“Defendant”):

INTRODUCTION

1. This action is brought pursuant to the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227.

3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) as the conduct giving rise to this action occurred in this district as Plaintiff resides in this district and Defendant transacts business in this district.

PARTIES

4. Plaintiff is a natural person residing in Middle River, Maryland.

5. Defendant is a business entity incorporated in Delaware with an office located in Carol Stream, Illinois.

6. Defendant acted through its agents, employees, officers, members, directors, heirs,

successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

7. In 2014 Defendant started calling (410) 804-56xx, Plaintiff's cellular telephone.
8. The purpose of Defendant's calls was to collect a debt.
9. These calls were for a non-emergency purpose.
10. Upon information and good faith belief, based on the frequency, number, nature and character of these calls, Defendant placed them by using an automatic telephone dialing system.
11. On or about January 29, 2015 at about 8:39am, Plaintiff instructed Defendant, through its employee, representative, or agent, to stop calling her.
12. Plaintiff revoked any consent, express or otherwise, for Defendant to use an automatic telephone dialing system to call her cell phone.
13. Defendant continued to use an automatic telephone dialing system to call Plaintiff's cell phone.
14. Between February 5 and April 30, 2015, Defendant used an automatic telephone dialing system to call Plaintiff's cellular telephone at least two hundred eighty-four (284) times.
15. Defendant called Plaintiff's cell phone multiple times per day.
16. Defendant called Plaintiff's cell phone up to eleven (11) times in a single day.
17. Defendant willfully and voluntarily used an automatic telephone dialing system to place these calls.
18. Defendant intended to use an automatic telephone dialing system to place these calls.
19. Defendant did not have Plaintiff's express consent to use an automatic telephone dialing system to place these calls.

COUNT I
DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

20. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

21. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff, KERI DWYER, respectfully requests judgment be entered against Defendant, DISCOVER FINANCIAL SERVICES d/b/a Discover Card, for the following:

22. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B),

23. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C),

24. All court costs, witness fees and other fees incurred,

25. Any other relief that this Honorable Court deems appropriate.

Dated: August 7, 2015

RESPECTFULLY SUBMITTED,

By: /s/ Deborah Van Bergen
Deborah Van Bergen
Federal Bar No. 13998
D. G. Van Bergen, P.A.
1406 B Crain Hwy S Ste 104
Glen Burnie, MD 21061
Office: 410-863-1012
E-mail: deborah.vanbergen@cavtel.net